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SENATE BILL 481

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING NINETY PERCENT ATTENDANCE
FOR ADVANCEMENT OR GRADUATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-12-2 NMSA 1978 (being Laws 1967,
Chapter 16, Section 170, as amended) is amended to read:

"22-12-2. COMPULSORY SCHOOL ATTENDANCE--RESPONSIBILITY.--

A. Any qualified student and any person who because
of the person's age is eligible to become a qualified student
as defined by the Public School Finance Act until attaining the
age of majority shall attend a public school, a private school,
a home school or a state institution. A person shall be
excused from this requirement if:

- (1) the person is specifically exempted by law
from the provisions of this section;

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1 (2) the person has graduated from a high
2 school;

3 (3) the person is at least seventeen years of
4 age and has been excused by the local school board or the
5 governing body of a state-chartered charter school or its
6 authorized representative upon a finding that the person will
7 be employed in a gainful trade or occupation or engaged in an
8 alternative form of education sufficient for the person's
9 educational needs and the person's parent consents; or

10 (4) with consent of the parent of the person
11 to be excused, the person is excused from the provisions of
12 this section by the superintendent of schools of the school
13 district or by the head administrator of the state-chartered
14 charter school and the person is under eight years of age.

15 B. A person subject to the provisions of the
16 Compulsory School Attendance Law shall attend school for at
17 least the length of time of the school year that is established
18 in the school district in which the person is a resident or the
19 state-chartered charter school in which the person is enrolled.

20 C. Beginning in the ninth grade year, a person
21 shall not advance to the next grade or graduate or receive a
22 certificate of graduation without attending classes ninety
23 percent of the school year as measured by daily attendance
24 unless the person is excused from doing so:

25 (1) for religious instruction pursuant to

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1 Section 22-12-3 NMSA 1978;

2 (2) pursuant to Paragraphs (3) and (4) of
3 Subsection A of this section; or

4 (3) as shown by a certificate of employment
5 pursuant to Section 22-12-6 NMSA 1978.

6 [~~G.~~] D. Any parent of a person subject to the
7 provisions of the Compulsory School Attendance Law is
8 responsible for the school attendance of that person.

9 [~~D.~~] E. Each local school board and each governing
10 body of a charter school or private school shall enforce the
11 provisions of the Compulsory School Attendance Law for students
12 enrolled in their respective schools."

13 Section 2. Section 22-12-7 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 175, as amended) is amended to read:

15 "22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL
16 TRUANTS--PENALTY.--

17 A. Each local school board and each governing body
18 of a charter school or private school shall initiate the
19 enforcement of the provisions of the Compulsory School
20 Attendance Law for students enrolled in their respective
21 schools.

22 B. To initiate enforcement of the provisions of the
23 Compulsory School Attendance Law against an habitual truant, a
24 local school board or governing body of a charter school or
25 private school or its authorized representatives shall give

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1 written notice of the habitual truancy by certified mail to or
2 by personal service on the parent of the student subject to and
3 in noncompliance with the provisions of the Compulsory School
4 Attendance Law.

5 C. If unexcused absences continue after written
6 notice of habitual truancy as provided in Subsection B of this
7 section has occurred, the student shall be reported to the
8 probation services office of the judicial district where the
9 student resides for an investigation as to whether the student
10 shall be considered to be a neglected child or a child in a
11 family in need of services because of habitual truancy and thus
12 subject to the provisions of the Children's Code. In addition
13 to any other disposition, the children's court may order the
14 habitual truant's driving privileges to be suspended for a
15 specified time not to exceed ninety days on the first finding
16 of habitual truancy and not to exceed one year for a subsequent
17 finding of habitual truancy.

18 D. If, after review by the juvenile probation
19 office where the student resides, a determination and finding
20 is made that the habitual truancy by the student may have been
21 caused by the parent of the student, ~~[then]~~ the matter will be
22 referred by the juvenile probation office to the district
23 attorney's office or any law enforcement agency having
24 jurisdiction for appropriate investigation and filing of
25 charges allowed under the Compulsory School Attendance Law.

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1 Charges against the parent may be filed in metropolitan court,
2 magistrate court or district court.

3 E. A parent of the student who, after receiving
4 written notice as provided in Subsection B of this section and
5 after the matter has been reviewed in accordance with
6 Subsection D of this section, knowingly allows the student to
7 continue to violate the Compulsory School Attendance Law shall
8 be guilty of a petty misdemeanor. Upon the first conviction, a
9 fine of not less than twenty-five dollars (\$25.00) or more than
10 one hundred dollars (\$100) may be imposed, or the parent of the
11 student may be ordered to perform community service. If
12 violations of the Compulsory School Attendance Law continue,
13 upon the second and subsequent convictions, the parent of the
14 student who knowingly allows the student to continue to violate
15 the Compulsory School Attendance Law shall be guilty of a petty
16 misdemeanor and shall be subject to a fine of not more than
17 five hundred dollars (\$500) or imprisonment for a definite term
18 not to exceed six months or both.

19 ~~[F. The provisions of this section shall apply~~
20 ~~beginning July 1, 2004.]~~

21 F. An habitual truant shall not be granted a high
22 school diploma or a certificate of graduation if the truant has
23 not been present a minimum of ninety percent of the current
24 school year as measured by daily attendance unless the person
25 is excused from doing so:

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1 (1) for religious instruction pursuant to
2 Section 22-12-3 NMSA 1978;

3 (2) pursuant to Paragraphs (3) and (4) of
4 Subsection A of Section 22-12-2 NMSA 1978; or

5 (3) as shown by a certificate of employment
6 pursuant to Section 22-12-6 NMSA 1978.

7 G. An habitual truant shall not advance to the next
8 grade."

9 Section 3. Section 22-12-8 NMSA 1978 (being Laws 1985,
10 Chapter 104, Section 1, as amended) is amended to read:

11 "22-12-8. EARLY IDENTIFICATION--UNEXCUSED ABSENCES AND
12 TRUANCY.--Notwithstanding the provisions of Section 22-12-7
13 NMSA 1978, if a student is truant, the school district or
14 charter school shall contact the student's parent to inform the
15 parent that the student is truant, ~~and~~ to discuss possible
16 interventions and to inform the parent that the student shall
17 not advance to the next grade, graduate or receive a
18 certificate of graduation without attending ninety percent of
19 the current school year as measured by daily attendance. The
20 provisions of this section do not apply to any absence if the
21 parent has contacted the school to explain the absence."

22 Section 4. Section 22-12-9 NMSA 1978 (being Laws 2004,
23 Chapter 28, Section 1, as amended) is amended to read:

24 "22-12-9. UNEXCUSED ABSENCES AND TRUANCY--ATTENDANCE
25 POLICIES.--

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1 A. As used in this section and Sections 22-12-7 and
2 22-12-8 NMSA 1978:

3 (1) "habitual truant" means a student who has
4 accumulated the equivalent of ten or more unexcused absences
5 within a school year;

6 (2) "truant" means a student who has
7 accumulated five unexcused absences within any twenty-day
8 period; and

9 (3) "unexcused absence" means an absence from
10 school or a class for which the student does not have an
11 allowable excuse pursuant to the Compulsory School Attendance
12 Law or rules of the local school board or governing authority
13 of a charter school or private school.

14 B. Each school district and charter school shall
15 maintain an attendance policy that:

16 (1) provides for early identification of
17 students with unexcused absences, truants and habitual truants
18 and provides intervention strategies that focus on keeping
19 truants in an educational setting and prohibit out-of-school
20 suspension and expulsion as the punishment for truancy;

21 (2) uses withdrawal as provided in Section
22 22-8-2 NMSA 1978 only after exhausting efforts to keep students
23 in educational settings; [and]

24 (3) requires that class attendance be taken
25 for every instructional day in every public school or school

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program in the school district; and
(4) requires a high school student to attend
ninety percent of the current school year as measured by daily
attendance in order to advance to the next grade or graduate or
receive a certificate of graduation.

C. School districts and charter schools shall
report truancy and habitual truancy rates to the department in
a form and at such times as the department determines and shall
document efforts made to keep truants and habitual truants in
educational settings. Locally chartered charter schools shall
provide copies of their reports to the school district."